

JACK E. HOOD
CHAIRMAN

GARLAND SPONBURGH
MEMBER OF THE BOARD

LEROY M. HITTLE
MEMBER OF THE BOARD



DANIEL J. EVANS
GOVERNOR

Washington State Liquor Control Board

POST OFFICE BOX 1189

Olympia, Washington 98501

July 17, 1969

On June 11, 1969, the Liquor Control Board adopted emergency wine rules as required by House Bill No. 100 (chapter 21, Laws of 1969, Ex. Sess.), a comprehensive measure particularly relating to wine.

By law emergency rules may not remain in effect longer than ninety days. Therefore, the Liquor Control Board has decided to initiate rule-making proceedings in accordance with the Administrative Procedure Act and to notify the code reviser of its intent to adopt, amend or repeal rules described in the attached notice. A copy of this notice has this date been filed in the office of the code reviser.

DEFENDANT'S EXHIBIT	
CASE NO.	C04-0360P
EXHIBIT NO.	447

Resp to Costco RFP
2895

TX447-001

WASHINGTON STATE LIQUOR CONTROL BOARD

RESOLUTION NO. 10

Administrative Order No. 3
LCB Order Register (WAC 1-12-040)

A RESOLUTION Relating to emergency rules of the Washington State Liquor Control Board.

BE IT RESOLVED BY THE WASHINGTON STATE LIQUOR CONTROL BOARD:

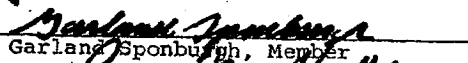
Section 1. The annexed new, amended or repealed rules, to wit: WAC 314-12-001, 314-16-160, 314-24-003 through 314-24-210, and 314-36-020 through 314-36-110 are hereby approved and adopted as emergency rules of the Washington State Liquor Control Board.

Sec. 2. This resolution and annexed rules, after being first recorded as an administrative order in the Order Register of the Washington State Liquor Control Board, shall be forwarded to the Code Reviser for filing pursuant to RCW 34.04 and WAC 1-12-050, a copy hereof also to be filed in the office of the Secretary of State pursuant to RCW 66.08.030 and forthwith published in pamphlets, which pamphlets shall be distributed free at all liquor stores and agencies and as otherwise directed by the Board.

Dated this 11th day of June, 1969.

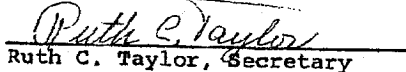
WASHINGTON STATE LIQUOR CONTROL BOARD


Jack C. Hood, Chairman

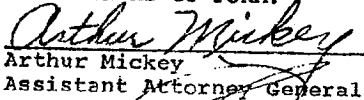

Garland Sponburgh, Member


Leroy M. Little, Member

Attest:


Ruth C. Taylor, Secretary

APPROVED AS TO FORM:


Arthur Mickey
Assistant Attorney General

EMERGENCY WINE RULES

NEW

(.1) DECLARATION OF PURPOSE (WAC 314-12-001)

The legislature recently enacted House Bill No. 100 (now chapter 21, Laws of 1969, Ex. Sess.), a comprehensive measure relating to intoxicating liquor and particularly relating to wine. This act amends eleven and adds three new sections to the liquor laws of this state. As provided in Section 15, the effective date of this act is July 1, 1969.

RCW 34.04.025 requires the notice of intention to adopt, amend or repeal any rule to be filed with the code reviser at least twenty days prior to agency action. RCW 34.04.030 authorizes the agency to dispense with such notice requirements under specified conditions in emergencies. RCW 34.04.040 provides that permanent rules become effective upon the expiration of thirty days after the date of filing, unless a later date is required by statute or specified in the rule, whereas emergency rules become effective upon filing.

Time does not permit effectuation of permanent rule changes by July 1, 1969, the effective date of chapter 21, Laws of 1969, Ex. Sess. It is, however, imperative that existing rules be amended or repealed to conform with the act and that new rules be adopted as required by the act, and that these changes be made to become operative on July 1, 1969, to coincide with the effective date of the act.

For the foregoing reasons the Washington state liquor control board expressly finds that the adoption, amendment, or repeal of the following emergency rules is necessary for the preservation of the public health, safety, or general welfare, and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to the public interest.

The Washington state liquor control board by virtue of the authority vested in it under RCW 66.08.030 and RCW 34.04.030 and after notice in accordance with RCW 42.32.010 does hereby adopt, amend, or repeal the following rules, to wit: Rule 32, being a portion of TITLE II.--RETAIL LICENSEES (WAC 314-16-160); Rules 57 through 83 of TITLE IV.--DOMESTIC WINERIES, WINE WHOLESALEERS, WINE IMPORTERS, AND (WINE) CERTIFICATE OF APPROVAL HOLDERS (WAC 314-24-003 through 314-24-210); and Rules 89 through 98, being a portion of TITLE VII.--LIQUOR IMPORTERS, PUBLIC STORAGE WAREHOUSES AND IMPORTATION OF LIQUOR (WAC 314-36-020 through 314-36-110).

The operative date of these rules shall be July 1, 1969.

AMENDED

(32) RECORDS--PURCHASES--REPORTS (WAC 314-16-160)

(1) The originals or copies of all sales slips, invoices and other memoranda covering all purchases of liquor by retail licensees shall be kept on file in the retail premises of the licensee purchasing the same for at least two years after each purchase, and shall be filed separately and kept apart from all other records, and as nearly as possible shall be filed in consecutive order and each month's records kept separate so as to render the same readily available for inspection and checking. All cancelled checks, bank statements and books of account covering or involving the purchase of liquor, and all memoranda, if any, showing payment of money for liquor other than by check, shall be likewise preserved for two years and shall be at all times kept available for inspection and checking.

(2) No retail licensee shall buy or accept delivery of liquor except for cash paid at the time of the delivery thereof: PROVIDED, That in individual and particular cases, upon consent of the board first had and obtained, in writing, a retail licensee may pay cash prior to delivery of liquor purchased: AND PROVIDED FURTHER, That credit not to exceed thirty (30) days may be received by railroads holding licenses under sections 23-L and 23-S-4 of the Washington State Liquor Act (RCW 66.24.390 and 66.24.420).

(3) No retail licensee shall purchase beer from a beer wholesaler at a price differing from the price for the package or container of beer as shown in the price posting filed in accordance with section (49) of the regulations.

(4) No retail licensee shall purchase wine except from state liquor stores or from a duly licensed ((domestic)) wine wholesaler ((or-a-duly-licensed-domestic-winery)). No ((domestic)) wine shall be purchased from a ((domestic-winery-or-a-domestic)) wine wholesaler at a price differing from the price for the container of wine as shown in the price posting filed in accordance with section (81) of the regulations. No retail licensee may return wine to a wine wholesaler ((or-to-a-domestic-winery)) except in accordance with the provisions of section (83) of the regulations.

(5) Each Class H licensee shall keep books and records which will clearly reflect all financial transactions and the financial condition of the business. All Class H licensees, in addition to the requirements of subsection (1) above, shall at all times: (a) Maintain records of all purchases for the premises including liquor, food and supplies. The purchases, supported by supplier invoices or signed vouchers, are to be segregated as to type and recorded, (b) maintain records of all sales on the premises from all sources including liquor, food, miscellaneous items, and service. Individual sales are to be recorded on sales slips or cash register tape in such a manner as to indicate the source of revenue and the records are to be filed for future audit purposes. Sales, segregated as to source of revenue, are to be recorded. (c) The records described in subdivisions (a) and (b) shall be preserved for a period of two years. (d) Make such periodic reports to the

Resp to Costco RFP
2898

Emergency Wine Rules, Operative Date 7/1/69

p. 2

TX447-004

board covering purchases, sales and inventory of liquor, food and supplies as may be prescribed or requested by the board, and (e) each Class H licensee shall upon request make available to the board, and/or its accredited representatives, his books and records relative to purchases, sales, and inventories of liquor, food and supplies.

Resp to Costco RFP
2899

Emergency Wine Rules, Operative Date 7/1/69

p. 3

TX447-005

stances, and such statement is not obscured in any manner in whole or in part.

(2) No label shall be used until after the same has been submitted to, and has received a written approval of, the board. ~~((See Regulation (63).))~~ (See Regulation (62).)

(3) No label shall be used that is misleading or indicates that the retailer is the producer or bottler or packager thereof, and no label shall be used which contains the name of the seller or purveyor in any manner, and no "proprietary" label shall be used nor shall any label be restricted substantially to one retail outlet or to retail outlets under common ownership or associated together in, by or through a buying organization or agency or in any manner which represents a common identity to the public. The term "proprietary" label shall include any label which in the opinion of the board is being restricted in distribution by a ~~((domestic winery or domestic))~~ wine wholesaler, and such restriction shall be found to exist when only token or minimal sales are made to retail licensees other than those to whom volume sales are obviously restricted, and when the label is not continuously offered and distributed to retail licensees generally in the same manner and to the same extent as unrestricted labels are offered and distributed.

AMENDED

(68) DOMESTIC WINERIES--RESPONSIBILITY FOR FRUITS USED--RECORDS (WAC 314-24-100)

~~((Every domestic winery shall be responsible for the place of origin of all fruits or fruit products used by such winery in the manufacture or production of domestic wine, regardless of how such fruits or fruit products are obtained by such domestic winery.))~~ Every domestic winery shall keep proper records as required by the Alcohol, Tobacco and Firearms Division, Internal Revenue Service, in a form approved by the board showing the place of origin and/or purchase of all fruits and fruit products used by such winery in the manufacture of ~~((domestic))~~ wine, which records shall be kept at the office of such winery and available at all times for inspection by the board.

AMENDED

(69) DOMESTIC WINERIES, WINE WHOLESALERS, WINE IMPORTERS, AND CERTIFICATE OF APPROVAL HOLDERS--MONTHLY REPORTS--BONDS REQUIRED--PAYMENT OF GALLONAGE TAX (WAC 314-24-110)

(1) The holders of licenses to manufacture or produce ~~((domestic))~~ wine within the state of Washington, holders of certificates of approval for wine manufactured outside of the state, and holders of certificates of approval for wine manufactured outside of the United States, must at all times when said license or certificate of approval is in force, have in effect and on file with the board a bond executed by any surety authorized to do business in the state of Washington, in form and amount acceptable to the board. The said bond shall

be payable to the Washington State Liquor Control Board and conditioned that such licensee or certificate of approval holder will pay to the board the tax of ten cents per wine gallon levied by reason of ~~((RCW-66.24.220))~~ RCW 66.24.210 (section 24-A of the Washington State Liquor Act).

(2) Every person, firm or corporation holding a license to manufacture or produce ~~((domestic))~~ wine within the state of Washington shall, on or before the tenth day of each month, submit to the board, upon forms furnished by the board, the statement required to be made by RCW 66.24.230 (section 25 of the Washington State Liquor Act) showing all transactions in ~~((domestic))~~ wine manufactured or produced on the winery premises, including wine sold to licensees within the state.

(3) At the time of making the above report to the board, the domestic winery shall pay to the board the wine gallonage tax as provided in ~~((RCW-66.24.230--(section-24-A(2)-of-the-Washington-State-Liquor-Act)))~~ RCW 66.24.210 (section 24-A of the Washington State Liquor Act) ~~((--and-said-report-method-of-payment-of-tax-shall-be-exclusive-of-any-other-method))~~; PROVIDED, That such tax shall not apply or be paid on interwinery shipments, nor to shipments exported directly to a point outside the state of Washington, nor on sales to the Washington State Liquor Control Board. For the purposes of this regulation, wine sold and delivered to an authorized representative of a military installation operated by or for any of the armed forces within the geographical boundaries of the state of Washington, for use within the confines of such military installation, shall be considered exported from the state.

(4) Every person, firm or corporation holding a license to import wine into the state of Washington shall make a report to the board, upon forms furnished by the board, on or before the tenth day of each month, of all wine imported into the state during the preceding calendar month. The tax of ten cents per wine gallon shall be paid on behalf of the importers of such wine by the holders of certificates of approval at the time that said holders of certificates of approval furnish to the board the report required by section 10, chapter 21, Laws of 1969, ex. sess., and Regulation (71). Such tax shall not apply to sales to the Washington State Liquor Control Board. The report method of payment of tax shall be exclusive of any other method.

~~((4))~~ (5) Failure to make such report or pay said tax at the time prescribed will be sufficient cause for the board to forthwith suspend or cancel the license privilege of the delinquent domestic winery, or revoke the certificate of the certificate of approval holder. In addition, in case of any such delinquency, the board shall immediately give notice to the surety on such winery's, or certificate of approval holder's, bond and shall take such action as is thereafter deemed necessary by the board to collect any of said tax which it finds is due.

~~((5))--In-consideration-of-the-foregoing-requirements, revenue-stamps-evidencing-payment-of-said-tax-shall-not-be used-on-any-packages-containing-wine-manufactured-or-produced by-a-domestic-winery, nor-shall-it-be-required-that-"in-transit"-stamps-be-affixed-to-packages-containing-wine-manufactured or-produced-by-the-winery.))~~

(6) Wine wholesalers or wine importers who export wine to a point outside the geographical confines of the state of Washington upon which the gallonage tax has been paid may claim a refund of said tax on forms prescribed and furnished by the board. For the purpose of this regulation, wine sold and delivered for use within the confines of any military reservation over which the state does not exercise jurisdiction shall be considered exported from the state. The wine gallonage tax shall not be paid on wine being shipped in interstate commerce from one point outside the state through the state to another point outside the geographical confines of this state.

NEW

(70) WINE IMPORTERS--REQUIREMENTS (WAC 314-24-115)

(1) Principal Office: Each wine importer shall keep the board informed at all times of the location of the principal office required by the Washington State Liquor Act and shall, not less than two days prior thereto notify the board in writing or by telegraph of any change in the location of such office.

(2) Warehouses: Wine importers maintaining warehouses at which wine imported by such importer is stored shall at all times keep the board advised of the location of such warehouses.

(3) Certain Duties: No wine importer shall import or transport or cause to be transported into the state of Washington any brand of wine manufactured within the United States but outside the state of Washington, unless such importer shall have first filed with the board a notice of his intention so to do, and shall have ascertained from the board that the winery manufacturing such wine has obtained from the Washington state liquor control board a certificate of approval as provided in the Washington State Liquor Act (section 10, chapter 21, Laws of 1969 Extraordinary Session).

(4) Responsibility for Taxes: No wine importer shall import any wine into the state unless and until said importer has arranged with the holder of a certificate of approval for the payment to the board of the tax thereon.

REPEALED

(71) GALLONAGE TAX ACCRUED UPON REMOVAL OF WINE FROM WINERY--EXCEPTIONS (WAC 314-24-120)

No domestic wine intended for sale within the state shall leave the domestic winery at which the same was manufactured, produced or bottled without the wine gallonage tax, as provided in RCW 66.24.230 (section 24-A(2) of the Washington State Liquor Act) accruing thereon, and such tax shall be paid by the domestic winery as provided in regulation (69): PROVIDED, That such tax shall not apply to inter-winery shipments nor to shipments outside the state of Washington.

NEW

(71) IMPORTER OF FOREIGN WINE--CERTIFICATE OF APPROVAL
REQUIRED (WAC 314-24-120)

(1) Foreign wine. Wine manufactured outside of the United States may be imported by a wine importer under the following conditions:

(a) The wine importer must be the holder of a certificate of approval and shall furnish the bond required by Regulation (69).

(b) The wine importer (certificate of approval holder) importing such wine must obtain label approval in accordance with Regulation (62), and shall be at all times solely responsible for the payment of any and all taxes due the state of Washington on account of such wine. Such wine shall be imported and delivered directly to either the warehouse of the importer (certificate of approval holder) or to some other warehouse previously designated by the importer and approved by the board.

(c) On or before the tenth day of the month following such importation the importer (certificate of approval holder) shall report such importation to the board setting forth the quantity, brand, type and package sizes of such wine and shall pay to the board the tax due thereon as provided in Regulation (69).

(d) All matters pertaining to the importation, transportation, storage, payment of taxes and keeping of records, and all other matters pertaining to the importation of wine manufactured outside the United States shall be subject at all times to such orders, rules and regulations as the board may from time to time prescribe, and the board reserves the right to make orders applicable to individual and particular cases in addition to general orders, rules and regulations applicable generally.

(2) Holders of certificates of approval--United States wineries. Each winery holding a certificate of approval may ship wine to licensed wine importers only. As a part of the report required by section 10, chapter 21, Laws of 1969 ex. sess., and by the written agreement embodied in the application for certificate of approval, and at the time of filing such monthly report with the board, each winery holding a certificate of approval shall pay the tax on behalf of the wine importer on all shipments of wine to such importers during the preceding calendar month, and shall report as follows:

(a) Such report shall show the quantity of wine sold or delivered to each licensed wine importer during the preceding month, together with the number, type and size of the packages or containers, respectively, and the date and invoice number of each shipment of such wine.

(b) All reports shall be made upon forms prescribed and furnished by the Washington State Liquor Control Board.

AMENDED

(72) CASE LOT SALES (WAC 314-24-130)

No domestic winery, wine wholesaler, wine importer, or certificate of approval holder shall sell or otherwise deliver ~~((domestic))~~ wine to another domestic winery, ~~((a-domestic))~~ wine wholesaler, and wine importer except in whole case lots, nor shall any ~~((domestic-wine-wholesaler))~~ such licensee receive from any ~~((domestic-winery))~~ other such licensee ~~((domestic))~~ wine except in whole case lots.

AMENDED

(73) ~~((EXPORTATION-WINE--))~~ SALES TO VESSELS (WAC 314-24-140)

~~((a)) Domestic wine intended for export may be exported direct by the domestic winery manufacturing or producing the same or sold and shipped by such domestic winery to another domestic winery without the payment of the wine gallonage tax.~~

~~((b))~~ Tax paid ~~((domestic))~~ wine may be sold direct by ~~((domestic wineries and domestic))~~ wine wholesalers to:

(1) Vessels engaged in foreign commerce and operating on regular schedules.

(2) Vessels engaged in interstate commerce and operating on regular schedules.

(3) Vessels commonly known as "tramps," engaged in interstate and/or foreign commerce but not operating on regular schedules and taking cargo when and where it offers and to any port.

~~((Domestic))~~ Wine may not be sold direct by ~~((domestic wineries and domestic))~~ wine wholesalers to any other class of boat or vessel unless the boat or vessel is in possession of a proper retail license.

AMENDED

(75) ~~((DOMESTIC))~~ WINE RECORDS--PRESERVATION (WAC 314-24-150)

(a) Every domestic winery ~~((and domestic))~~, wine wholesaler, and wine importer shall keep ~~((domestic))~~ wine accounts separate from other accounts, and keep a perpetual inventory by brand and type of wine, such inventory to be reconciled with a physical inventory at the end of each month, and maintain proper records in a form approved by the board showing all transactions in ~~((domestic))~~ wine.

(b) Every domestic winery ~~((and domestic))~~, wine wholesaler, and wine importer, shall, in the case of sales of ~~((domestic))~~ wine within the state, keep and preserve all invoices, bills of lading, sales slips, and other evidence of sale, in the office of the domestic winery ~~((or domestic))~~, wine wholesaler or wine importer for at least two years after each sale.

(c) Every domestic winery (~~and domestic~~), wine wholesaler, and wine importer, shall, in the case of ~~domestic~~ wine exported from the state, keep and preserve all bills of lading and other evidence of shipment in the office of the domestic winery (~~or domestic~~), wine wholesaler, or wine importer for at least two years after each shipment.

(d) in the case of sales, transfers or shipments of ~~domestic~~ wine between a domestic winery and a ~~domestic~~ wine wholesaler, or between two domestic wineries, or between two ~~domestic~~ wine wholesalers, or between a wine importer and a ~~wine wholesaler~~, both the shipping and receiving ~~domestic winery and domestic wine wholesaler~~ licensees, as the case may be, shall keep and preserve all invoices, bills of lading, sales slips, and other evidence of sale, transfer or shipment in their respective offices for at least two years after each sale, transfer or shipment.

AMENDED

(76) DOMESTIC WINERIES--MONTHLY REPORTS--RETAIL SALES FOR OFF-PREMISES CONSUMPTION--WINE SERVED WITHOUT CHARGE ON PREMISES (WAC 314-24-160)

(1) Every domestic winery shall, within ten days after the close of each month, furnish to the board, upon forms prescribed and furnished by the board, a statement showing its past month's operations and such other information as the board may require.

(2)(a) Before any domestic winery shall exercise the privileges of selling or serving wine upon the winery premises, as provided in RCW 66.28.040, such winery shall designate upon the premises a place where wine intended to be offered at sale for retail, or served, shall be segregated from other wine of the winery, and such wine, when so segregated, shall be kept separate and apart at all times from other wine belonging to the winery.

(b) In selling wine of its own production at retail on its premises for off-premises consumption, a domestic winery shall conduct its operation within the general statutory and regulatory guidelines applicable to the holder of a Class F wine retailer's license.

(c) A domestic winery which serves wine of its own production without charge on the winery premises to employees and casual visitors, shall operate in general accordance with laws and regulations applicable to the operation of a Class C wine retailer's license; Provided, That no wine shall be sold for consumption on the premises.

(d) No license or fee is required for the holder of a domestic winery license to engage in the activities outlined in (a), (b) and (c) of this regulation. Before exercising these privileges, however, such winery shall notify the board that it plans to sell and/or serve wine as provided herein, and obtain approval of the proposed sales and service area and facilities.

AMENDED

(77) CASH SALES--EXCEPTIONS (WAC 314-24-170)

No ~~((domestic-winery-not-domestic))~~ wine wholesaler shall sell or deliver any ~~((domestic))~~ wine to any retailer within the state except for cash paid at the time of the delivery of such ~~((domestic))~~ wine: PROVIDED, That in individual and particular cases, upon consent of the board first had and obtained, in writing, cash may be paid prior to the delivery of ~~((domestic))~~ wine sold to any retailer: AND PROVIDED FURTHER, That credit not to exceed thirty (30) days may be extended to railroads holding licenses under RCW 66.24.390 and 66.24.420 (sections 23-L and 23-S-3(4) of the Washington State Liquor Act).

REPEALED

(78) DOMESTIC WINE WHOLESALERS--CERTAIN RIGHTS GRANTED (WAC 314-24-180)

Domestic wine wholesalers may sell and export domestic wine from the state, and one domestic wine wholesaler may purchase domestic wine from, or sell domestic wine to, another domestic wine wholesaler.

NEW

(78) WINE WHOLESALERS, WINE IMPORTERS--CERTAIN RIGHTS GRANTED (WAC 314-24-180)

(1) Wine wholesalers may sell to the board, export wine from the state, and purchase wine from or sell wine to another wine wholesaler.

(2) Wine importers may sell to the board, export wine from the state, or sell to wine wholesalers, but may not sell to another wine importer.

REPEALED

(81) WINE PRICE POSTING (WAC 314-24-190)

Every domestic winery shall file with the board at its office in Olympia a "wine price posting" showing the delivered prices at which any and all brands of wine offered for sale by such domestic winery shall be sold within the state, which prices shall be uniform for all retailers within the state. All price postings shall be made upon forms prescribed and furnished by the board and shall set forth:

(a) All brands, types and sizes of bottles or glass containers of wine offered for sale by such domestic winery, which bottles or glass containers shall be limited to the sizes permitted in Regulation (66).

(b) The delivered sale prices thereof within the state, including allowances, if any, for returned empty bottles or glass containers.

No domestic winery nor domestic wine wholesaler shall sell or offer for sale any bottle or glass container of domestic wine at a price differing from the price of such bottle or glass container of domestic wine as shown in the price posting then in effect filed by the domestic winery whose label appears on such bottle or glass container.

No price posting shall become effective until ten days after the actual filing thereof with the board. In the event a price posting is filed before a previous one has become effective, the subsequent filing shall nullify said previous price posting.

No price posting involving quantity discounts shall be made.

All price postings filed as required by this regulation shall at all times be open to inspection to all trade buyers within the state of Washington and shall not in any sense be considered confidential.

Any provision of this regulation may by order of the board be suspended or modified without notice to meet emergencies.

NEW

(81) WINE PRICE POSTING (WAC 314-24-190)

(1) Every domestic winery and every certificate of approval holder shall file with the board at its office in Olympia a wine price posting, showing the delivered wholesale prices at which any and all brands of wine offered for sale by such domestic winery or certificate of approval holder shall be sold by wine wholesalers to retailers within the state. Each such schedule of wholesale prices shall be uniform for all retailers within the state.

(2) All price postings must be received by the board not later than the fifteenth day of the month, and if approved will become effective on the first day of the calendar month following the date of such filing. An additional period, not to exceed five days will be allowed for revision of a price posting, to correct errors, omissions, or to make normal price changes, but a revised posting must be on file at the board office by not later than the twentieth day of the month in order to become effective on the first day of the next calendar month.

(3) Filing Date Exception--Whenever the fifteenth day of any month falls on Saturday, Sunday or a legal holiday, an original price posting may be filed not later than the close of business the next business day.

(4) In the event that a domestic winery or certificate of approval holder determines to make no changes in any items or prices listed in the last filed and approved schedule, such prices listed in the schedule previously filed and in effect, shall remain in effect for each succeeding calendar month until a revised or amended schedule is filed and approved, as provided herein.

(5) Postings shall be submitted upon forms prescribed and furnished by the board, and shall set forth:

(a) All brands, types and sizes of packages or containers of wine offered for sale in this state by such domestic winery or certificate of approval holder, which packages or containers shall be limited to the sizes permitted in Regulation (66).

(b) The delivered wholesale prices thereof within the state, including allowances, if any, for returned empty packages or containers. Such posted prices shall not include the tax of 26 percent of the wholesale selling price, levied under RCW 82.08.150 (1), which must be collected by the wine wholesaler and remitted directly to the state department of revenue.

(c) No wine wholesaler shall sell or offer for sale any package or container of wine at a price differing from the price of such item as shown in the price posting then in effect.

(d) Prices posted by a domestic winery or certificate of approval holder shall be consistent as between the various packages and containers offered for sale.

(e) No price postings involving temporary price reductions or quantity discounts shall be made. No price shall be posted which is below "cost," or below "cost of doing business," or a "loss leader" as those terms are defined in Regulation (124)(e).

(f) Wholesale prices on a "close out" item shall be accepted by the board only if the item to be discontinued has been listed on the state market for a period of at least six months; and upon the further condition that such item will not be imported for sale in this state for a period of one year following the approval of such "close out." The wholesale price on such an item shall be deemed acceptable only if it is in compliance with the provisions of Regulation (124)(e).

(6) The board may reject any price posting or portion thereof which it deems to be in violation of this or any other regulation or which would tend to disrupt the orderly sale and distribution of wine. Whenever the board shall reject any posting the licensee submitting said posting may be heard by the board and shall have the burden of showing that the posting is not in violation of regulation and/or does not tend to disrupt the orderly sale and distribution of wine. Thereupon if said posting is accepted it shall become effective at a time fixed by the board. If said posting or portion thereof is rejected the last effective posting shall remain in effect, until such time as an amended posting is filed and approved in accordance with the provisions of this regulation.

All price postings filed as required by this regulation shall at all times after approval be open to inspection to all trade buyers within the state of Washington and shall not in any sense be considered confidential.